

### **REMARKS**

Claims 1-12 are pending and subject to a restriction requirement. In particular, the Examiner requires restriction to one of the following inventions under 35 U.S.C. § 121:

Group I: Claims 1-5, drawn to a method for constructing a hose assembly;

Group II: Claims 6-8, drawn to an apparatus for coating a hose; and

Group III: Claims 9-12, drawn to a hose assembly.

During a telephone conversation held October 27, 2005, Applicant provisionally elected, *with traverse*, Examiner's Group I (that is, claims 1-5, where claim 1 is independent and claims 2-5 depend therefrom). The Examiner has accordingly withdrawn claims 6-12 from further consideration. Claims 1-5 stand rejected.

Applicants have thoroughly reviewed the outstanding Office Action including the Examiner's remarks and the references cited therein. Claims 1 and 5 are amended herein. Support for the amendments can be found, for example, at paragraphs [0026] through [0028]. No new matter is added herein.

The following remarks are believed to be fully responsive to the Office Action. All the pending claims are believed to be patentable over the cited references.

### **Restriction Requirement**

Applicant hereby confirms the provisional election, *with traverse*, of Examiner's Group I.

The Examiner characterizes the inventions of Groups I and II as a process and an apparatus for its practice. The Examiner characterizes the inventions of Groups I and III as a process and the product made thereby. The Examiner characterizes the inventions of Groups II and III as an apparatus and the product made.

Where search and examination of an entire application can be made without serious burden, the Examiner must examine the application on the merits even if the claims are drawn to distinct inventions. MPEP § 803. Applicant respectfully submits that the Examiner nowhere contends, let alone demonstrates, that a search of all pending claims would be a serious burden. Further, at the Examiner's disposal are powerful electronic search engines providing the

Examiner with the ability to quickly and easily search all pending claims. Applicants therefore submit that the restriction requirement is improper and should be withdrawn.

### **Rejection Under 35 U.S.C. § 103**

The Examiner rejects claims 1-5 under 35 U.S.C. § 103 as obvious over Japanese Patent 2001-289366 (“the Japanese Patent”) or U.S. Patent Application Publication No. 2002/0056511 to Mathew et al. (“Mathew”) in view of any one of U.S. Patent No. 5,236,743 to Bates et al. (“Bates ‘743”), U.S. Patent No. 5,133,282 to Bates et al. (“Bates ‘282”), U.S. Patent No. 3,764,452 to Marzocchi (“Marzocchi ‘452”), U.S. Patent No. 3,725,123 to Marzocchi et al. (“Marzocchi ‘123”), or U.S. Patent No. 3,533,830 to Marzocchi et al. (“Marzocchi ‘830”), optionally further in view of U.S. Patent No. 5,000,359 to Gareis (“Gareis”). To establish a *prima facie* case of obviousness, the Examiner must demonstrate some suggestion or motivation to combine one or more references, with a reasonable expectation of success, to teach each and every claimed limitation. MPEP § 2142. Applicant respectfully submits that the Examiner has failed to meet this burden.

Claim 1 recites “opening gaps in the *braided reinforcing material*; [and] dispersing a polymeric material and a carrier fluid into the opened gaps of the *braided reinforcing material*...” (emphasis added). That is, the polymeric dispersion within the braided layer is applied to the braided layer after the braided layer has been formed on the inner layer. Specification, Paragraph [0022]. By opening gaps in the braided reinforcing material, air can escape from the interstitial gaps, creating a vacuum that “draw[s] the emulsion into the gaps of the reinforcing material.” Claim 4; see also Specification, Paragraph [0028].

As the Examiner appears to recognize, Mathew teaches only a coating dispersed throughout the braided layer, Mathew, Paragraph [0026], without any discussion of achieving that coating in the manner according to the present invention. The Japanese Patent contains a similar acknowledged deficiency. Contrary to the Examiner’s assertions, however, the remaining references fail to address these shortcomings.

Both Bates ‘743 and Bates ‘282 teach coating individual fibers by completely separating them from one another. Bates ‘743, Abstract; Bates ‘282, Abstract. Marzocchi ‘830, Marzocchi ‘123, and Marzocchi ‘452 teach coating individual fibers or bundles of individual fibers, for

example by drawing them through a bath. Marzocchi '830, Col. 3, Lines 15-47; Marzocchi '123, Col. 5, Line 74 to Col. 6, Line 3; Marzocchi '452, Col. 3, Lines 13-16. In all cases, however, the fibers or fiber bundles are coated *prior to* their incorporation in an assembly (i.e., their incorporation into a tire as a reinforcing agent as disclosed in Marzocchi '123 at Col. 2, Lines 3-7). Thus, even if combined with Mathew or the Japanese Patent, the only resultant teaching would be to treat the fibers *prior to* the recited step of "applying a braided reinforcing material...about an inner tubular layer." The present invention, however, treats the fibers *after* their incorporation into the hose assembly, as the recitation of "dispersing a polymeric material and a carrier fluid into the opened gaps of the *braided* reinforcing material" would be meaningless if braiding about the inner tubular layer had not already occurred at the time of dispersing the polymeric material.

The Examiner further asserts that "it was also known to open a braid up in a resin bath with a series of rollers therein in order to facilitate impregnation as suggested by Gareis[,] and points to rollers 42, 44, 46, and 48 as evidence. However, the very passage that the Examiner cites clearly indicates that rollers 42, 44, 46, and 48 do not serve to open braid 28, but rather merely "provide a path of sufficient length through the bath to insure the gel material has adequately penetrated and filled essentially all of the void spaces in the braid layer 28." Gareis, Col. 4, Lines 29-35. Absolutely no mention is made of opening the braid; penetration is ensured by duration of exposure, not by manipulation of the braid. Thus, Applicant respectfully submits that rollers 42, 44, 46, and 48 serve merely to facilitate the transport of the braid through the reservoir, and do not "[open] gaps in the braided reinforcing material" as recited in claim 1.

For the foregoing reasons, Applicant submits that the asserted combination of references teaches neither "opening gaps in the braided reinforcing material" nor "dispersing a polymeric material and a carrier fluid into the opened gaps of the braided reinforcing material[.]" The Examiner has therefore failed to establish a *prima facie* case of obviousness of claim 1. Claims 2-5 depend from claim 1 and are allowable for at least the same reasons. Applicant therefore earnestly solicits withdrawal of the rejection of claims 1-5 under section 103.

**Rejection Under 35 U.S.C. § 112**

The Examiner has rejected claim 5 under 35 U.S.C. § 112 ¶ 2 as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. In particular, the Examiner indicates that “the second polymeric material” lacks antecedent basis. Applicant submits that the amendment made to claim 5 herein overcomes this rejection and accordingly respectfully requests its withdrawal.

**CONCLUSION**

In view of the foregoing amendments and remarks, Applicant respectfully submits that the application is in condition for allowance, and request that all objections and rejections be withdrawn, that all pending claims be allowed, and that the application be passed to issue. If, for any reason, the Examiner finds the application to be in other than condition for allowance, the Examiner is invited to contact the undersigned in an effort to resolve any matter still outstanding before issuing another action.

Applicant believes that a three month extension of time is necessary for this paper to be considered timely filed, and hereby petitions for such extension under 37 C.F.R. § 1.136. A check in the amount of \$1020 is enclosed. Please charge any fee deficiencies in fees and credit any overpayments to Deposit Account No. 50-2036 with reference to Attorney Docket No. 79287.21520.

Respectfully submitted,

BAKER & HOSTETLER LLP



Scott A. Felder  
Reg. No. 47,558

Date: 28 Apr/2006  
Washington Square, Suite 1100  
1050 Connecticut Avenue, NW  
Washington, DC 20036-5304  
Telephone: 202-861-1500  
Direct: 202-861-1545  
Facsimile: 202-861-1783